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STATE FOR EUR/NCE BILL SILKWORTH AND CA/OCS CHRISTOPHER LAMORA

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SUBJECT: ROMANIAN ADOPTIONS CHIEF REMAINS INFLEXIBLE, AS NEW REPORT HIGHLIGHTS POOR CONDITIONS IN INSTITUTIONS

¶1. (SBU) Summary: On May 3, Consul General, and the AID Director called on Theodora Bertzi, Secretary of State of the Romanian Office for Adoptions (ROA). The purpose was to present our formal reaction to the March 29 GOR report on the files of Romanian orphans and abandoned children on whose behalf foreigners had filed adoption petitions before the January 1, 2005 ban on inter-country adoptions. After lengthy discussion, we confirmed Bertzi has no intention of revisiting the ban, explaining the Working Group's conclusions, or credibly explaining the gap between the ideals expressed in the law and the tens of thousands of Romanian children who lack permanent families. Meanwhile, news reports about the May 9 release of a U.S. NGO report condemning Romania's handling of orphans and abandoned children with disabilities have rocked Bucharest, with some Romanian media condemning the Romanian government for its inaction. A May 10 announcement by the Prime Minister's office that an investigation of these new allegations will be carried out by the High Level Working Group for Romanian Children, which is led by international adoption foe and Member of European Parliament Emma Nicholson, does not suggest any change of thinking yet in government circles.
End summary.

CG to Adoptions Chief: Your Report is Unacceptable

¶2. (U) CG opened the May 3 meeting by telling Bertzi the USG found the Working Group (WG)'s report unacceptable and lacking credibility, since the WG, in its non-transparent process, had found not one of the 1,100 children in the pending cases eligible for intercountry adoption. CG reported we would present her government with a formal request to individually review a substantial number of the pending cases filed by Americans.

¶3. (U) Bertzi rejected the possibility of conducting a full second review of the pending cases, saying she did not have the staff for it. She stated with confidence that she had the backing of Romania's President, Traian Basescu, and Prime Minister, Calin Popescu-Tariceanu, as well as "all the European ambassadors who told her the ban was correct and she should hold the line." She did allow that the Romanian Office of Adoptions (ROA) could possibly monitor regularly scheduled quarterly reports from local authorities on the situation of orphans and abandoned children, and could respond by letter to our questions about individual cases. CG replied we more likely would seek direct review of individual files of the pending cases.

¶4. (U) Bertzi argued that we misunderstood the results of the Working Group review. Family situations have changed over

the years. Some of the children were never legally adoptable and still are not. Some children were subject to multiple petitions. Some families seeking one child petitioned for multiple children. Many children were matched with potential adopters by photographs. The Group did not have new criteria for evaluating the cases, but analyzed children's real situations. If children were in stable situations the Group could not move them.

¶ 15. (U) Bertzi asserted that it was no longer possible to talk in terms of 1,100 cases because so many pending cases were clearly resolved by domestic solutions. Among the 415 listed in the report as being in "substitute families," and the other 83 listed as "placed in the protection system," none are legally adoptable, even for domestic purposes. If any of those children were eventually found "adoptable," and whether inter-country adoption (ICA) was an option would depend on what the law was at that time. Some of the children in the state protection system live better than other children living in poor families, Bertzi claimed.

¶ 16. (U) She argued that the new law was not retroactive, but did give birth families the right for a reconsideration of their earlier loss of parental rights. She said the new law is better in many ways, allowing authorities new powers to intervene in cases of abuse or neglect. But in the past, some parents had been pressured or induced to give up their children, or lost rights after six months of no contact under the old law. Sometimes a child was reported "abandoned" despite receiving parental visits, after intermediaries bribed child center workers to omit official reporting of the visits.

¶ 17. (SBU) The new law requires that parents formally relinquish their rights before a court. Child law courts are

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needed as soon as possible. AID Director offered to seek funding to help the GOR establish the children's courts it needed, to help improve the process of clarifying the legal situation of children potentially needing adoption, if the GOR were to commit to including ICA in its options for addressing the needs of children. Bertzi showed no interest in the proposal.

¶ 18. (U) Bertzi said the ROA has sent eleven past cases of inter-country adoptions to the courts for investigation and possible criminal findings. Three involve children being swapped for others named in petitions. Some involve adoption foundations operating in Romania, which had matched the same children to multiple foreign families.

Bertzi's Delusion: "Our System is a Model"

¶ 19. (U) Bertzi said she had proposed during meetings in Brussels that there be common rules for ICA throughout Europe, which would be needed before Romania should resume ICA. The domestic adoption process, itself, needs to be cleaned up and protected against corruption before the law on ICA can be revisited. The law will always be strict regarding ICA, since this is the EU vision, she claimed. Bertzi said her vision would be for eventual very limited ICA in which children would be raised in a culture close to their own. She allowed as she was not a specialist in the field but speculated child welfare experts could be consulted as to the relative benefit to children of being raised in their own culture and a foreign one. CG and AID Director countered that no experts were needed, since all Bertzi needed to do was ask the children themselves whether they would rather be in an orphanage or group home in their home culture, or in a family abroad. Further, global harmonization of European adoption norms could last a full generation. Bertzi had no response on either point.

¶ 10. (U) After AID Director challenged Bertzi's public

statements promoting Romania's child welfare policies as a model for the region, Bertzi said she considered the system a model in terms of "how fast it has developed, not that it is perfect." Much support is needed to properly apply the new, more rigorous law, she said, including better methodology and tools at the local level for evaluating potential adopting families and matching them with children. The ROA has created tools for doing this, with help from UNICEF and a Belgian consultant, she said.

¶11. (U) Bertzi observed that the UN Convention on Children's Rights is interpreted differently in the U.S. and the EU. CG and AID Director pointed out that UNICEF headquarters has made clear it interprets the UNCCR as endorsing ICA in certain cases, and finding ICA preferable to domestic institutional care.

Keeping the Door Closed on International Adoptions

¶11. (SBU) Bertzi said she was glad to have achieved a common approach to ICA among the ROA, President Traian Basescu and Prime Minister Calin Popescu-Tariceanu. She said it was "beyond her" if either of them had indicated in anyway that there could be any flexibility in applying or changing the law.

¶12. (U) Bertzi asserted "politics has no place in a sensitive issue like adoptions." CG replied that Bertzi herself has tried to close the issue on political grounds regardless of the true situation of children needing adoption. AID Director pointed out that Bertzi had stated in December 2005, months before the final report, that no case would be considered for ICA. Bertzi replied that, at the time, the Working Group already had reviewed all the cases. CG replied that this meant the GOR had misrepresented the status of the review, telling this Embassy in December and January that the review was still underway.

Schaaf/Baiban case

¶13. (SBU) CG repeated the urgent request which we had raised with both the President's and Prime Minister's office that the GOR stop all action in processing the domestic adoption of Valentina Baiban, a young girl on whose behalf U.S. citizens Allyson and Michael Schaaf of New Hampshire had filed an adoption petition in 2002. CG expressed our strong

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concern that the domestic adoption appeared to have been hastily arranged, then rapidly expedited, to coincide with Ms Schaaf's testimony against the ban to the European Parliament in Brussels on April 25. According to Bertzi's own email of April 26 to the Embassy, after four years of no Romanian families expressing interest in the girl, between March 27 and late April a Romanian family was suddenly found, visits arranged, a psychological match determined and a file deposited with the court to seek the girl's adoption. The group home where the girl had lived for four years reports she was removed to live with the Romanian adoptive family on Easter Monday -- a national holiday on which all normal activity ceases.

¶14. (SBU) Bertzi protested that our suspicions were "no more than science fiction" and that she was not the kind of person that would arrange such a thing. Bertzi said she understood the Schaafs had never visited the child and had registered to adopt her when she was only seven months old while the previous Romanian Committee for Adoptions (RCA) only considered ICA for children over three. AID Director pointed out that the RCA criteria were not public at the time. Bertzi said she understood the case was emotional, given that the home where the girl was living was named for another child the Schaaf's adopted who died young. When CG corrected her -- the house is named for the late adopted daughter of an

associate of the Schaaf's -- Bertzi was momentarily shaken. She claimed not to have known anything about the child's situation until the Romanian ambassador to the EU called her in preparing for his own meeting with Schaaf and U.S. Representative Jeb Bradley of New Hampshire. She insisted she made her first call to the Gorj County authorities then, and learned of the girl's placement with a Romanian family. She claimed the girl had been shown to two families in her home county, and finally matched with a couple from another county. CG pointed out that in her April 26 email, Bertzi had stated that prior to March 27, no match had been found for the child. CG stated that the sequence of events Bertzi described was hard to believe.

Trying to Cut Out Foreign NGOs?

¶15. (U) CG and AID Director protested the letter Bertzi dated March 14 and sent to all county level Departments for Protection of Children and Social Welfare prohibiting contact between foreigners and orphans or abandoned children in Romania, except foreigners related to the children or who had adopted siblings of the children. CG and AID Director told Bertzi that the letter was being interpreted by foreign and Romanian NGOs and local officials as necessitating a complete ban on contact by foreigners with the children, including the many foreign NGOs who are licensed by the GOR and provide critical child care in under-served areas, and the many foreigners who visit Romania to volunteer in institutions. Bertzi retorted that "any such interpretation of the letter is abusive." She argued that, by referring to Article 4 of the Hague Convention in its fifth paragraph, the letter "clearly" was limited to prohibiting contact between the children and foreign families visiting Romania specifically to find children to adopt. She rejected the suggestion she send a clarification of the directive to the field.

¶16. (SBU) Comment. As she has in previous meetings and press interviews, Bertzi pointed to formal law or ideals rather than discussing current realities. Family courts "should" be set up since under the new law only a court may abrogate the rights of negligent parents and declare orphans or abandoned children "adoptable." In fact, only one such court exists, so children whose parents neither exercise parental responsibilities nor actively give up their parental rights are trapped in permanent limbo, living in foster or institutional care. Bertzi tried to misrepresent our position of seeking inter-country adoption for a limited number of pending cases as advocacy for wholesale resumption of the corrupt and abusive adoption system of the 1990's. She changed the subject whenever confronted by inconvenient evidence of the deterioration of conditions for Romanian orphans and abandoned children under the new law. She retreated into blaming the Romanian Department for the Protection of Children's Rights for inaction, or claiming she could only control processes that follow court findings of adoptability.

¶17. (SBU) Comment Continued. The meeting with Bertzi preceded the May 8 release of a report by Mental Disability Rights International on the plight of some disabled orphans in

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Romanian institutions. The high level of international attention accorded the report -- and GOR concern that it could impact a pending decision in Brussels on Romania's EU accession date -- contributed to the establishment by PM Tariceanu of a task force to investigate institutions that deal with disabled children. However, the task force is to be coordinated by the High Level Working Group, which is led by MEP and former European Parliament Rapporteur for Romania Emma Nicholson, a vehement opponent of international adoptions. The High Level Group also includes Bertzi and other officials responsible for the current flawed system. In the words of one Embassy contact, the investigation will be "a classic case of the fox guarding the hen house and will

not produce the fundamental changes in approach that will be necessary to protect the thousands of Romania's orphaned and abandoned children who are living today in sub-standard conditions. End Comment.

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